

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE NO. 2 OF 1994

For Approval of Signature :

Hon'ble MR. JUSTICE B.C. PATEL and  
MR. JUSTICE R.R. JAIN

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1. Whether Reporters of Local Papers may be allowed  
to see the judgments ?

2. To be referred to the Report or not ?

3. Whether Their Lordships wish to see the fair copy  
of the judgment ?

4. Whether this case involves a substantial question  
of law as to the interpretation of the  
Constitution of India, 1950 or any Order made  
thereunder ?

5. Whether it is to be circulated to the Civil  
Judge ?

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Appearance :

M/s. M.R. Bhatt & Co., Advocates for the Applicant.  
Respondent served.

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Coram : B.C. Patel & R.R. Jain, JJ.

Date of Decision : 11th July, 1996

Oral Judgment : (Per B.C. Patel, J.)

At the instance of the Revenue, the following  
question is referred to this Court under Section 256 (1)  
of the Income Tax Act, 1961 :-

"Whether, the Appellate Tribunal is right in law  
and on facts in holding that depreciation and  
Investment allowance should be allowed without  
reducing the actual cost of the assets by the  
amount of subsidy received by the assessee from  
the Government ?"

2. The Tribunal decided the controversy following  
the decision of this Court in the case of CIT Vs. Grace  
Paper Industries Pvt. Ltd. reported in (1990) 183 ITR  
591. This case is also covered by the decision of the

Apex Court in the case of CIT Vs. P.J. Chemicals, reported in 210 ITR 830. Hence, the question is required to be answered against the Revenue and in favour of the Assessee. Accordingly, we answer the question in favour of the Assessee and against the Revenue. This reference is disposed of accordingly with no order as to costs.

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